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IN THE
COURT OF APPEALS OF INDIANA

ERIC WILSON,	)	
	)	
Appellant-Defendant,	)	
	)	
vs.	)	No. 49A02-0509-PC-921
	)	
STATE OF INDIANA,	)	
	)	
Appellee-Plaintiff.	)	

APPEAL FROM THE MARION SUPERIOR COURT
The Honorable Jane Magnus-Stinson, Judge
Cause No. 49G06-0402-PC-17618

September 29, 2006

MEMORANDUM DECISION - NOT FOR PUBLICATION

SHARPNACK, Judge

Eric Wilson appeals his sentence for five counts of robbery as class B felonies[1] and one count of attempted robbery as a class B felony.[2] Wilson raises one issue, which we restate as whether the sentence is inappropriate in light of the nature of the offense and character of the offender. We affirm.

The relevant facts follow. On February 4, 2004, the State charged Wilson by information with five counts of robbery (Counts I, V, X, XVI, XX), twenty-one counts of criminal confinement[3] (Counts II-IV, VI-VIII, XI-XV, XVII-XIX, XXI-XVII), and one count of attempted robbery (Count IX), all as class B felonies. Pursuant to a plea agreement, Wilson agreed to plead guilty to five counts of robbery and one count of attempted robbery in exchange for the State agreeing to dismiss all twenty-one counts of criminal confinement. The plea agreement further provided that sentencing would be determined by the trial court with both sides free to argue about the appropriate term. The trial court accepted the plea agreement.

At the sentencing hearing, Wilson acknowledged the truth of the State's allegations and affirmed that on January 14, 2004, January 25, 2004, January 29, 2004, and February 1, 2004, he along with an accomplice, Fred Johnson, entered various fast food restaurants while armed with BB guns, and robbed or took money from Shellie Redmond on two different occasions, Adina Blodgett, Sandy Demmings, and Christina

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[1] Ind. Code § 35-42-5-1 (2004).

[2] Ind. Code § 35-41-5-1 (2004).

[3] Ind. Code § 35-42-3-3 (2004).

Wills. Additionally, Wilson affirmed that on January 23, 2004, he along with Johnson entered a bar and attempted to rob or take money from Lisa Lewis while armed with a BB gun. The trial court further noted that during the commission of these robberies and the attempted robbery, Wilson pointed his gun at victims, point blank on several instances, gave some of his victims only thirty seconds in which to comply with his demands for money, and ordered customers and other employees present to lay on the ground.

The trial court found two aggravating circumstances and two mitigating circumstances. Wilson's lengthy juvenile history along with the "number of crimes, and the number of victims over this short period of time"[4] were found to be aggravating circumstances. Transcript at 62. Wilson's mental and emotional problems and the fact that the weapons used in the commission of the robberies were not real[5] were found to be mitigating circumstances.

The trial court sentenced Wilson to the presumptive sentence of ten years for each of the six counts for which he pleaded guilty. Further, the trial court ordered all sentences to be served concurrently except Counts V, IX, and XVI, which were ordered

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[4] The trial court considered this aggravating circumstance to be the "overwhelming aggravating factor in the Court's mind." Transcript at 61.

[5] Though the trial court accepted in mitigation that the weapons were not real, it noted that it "will be afforded moderate weight but not significant weight because it still scares people to death thinking that there is a real gun." Transcript at 60-61.

to be served consecutively. In sum, Wilson was sentenced to thirty years in the Indiana Department of Correction.

The issue to be considered is whether Wilson's sentence is inappropriate in light of the nature of the offense and character of the offender. Wilson contends that because of his troubled childhood, his mental and emotional difficulties, and the repeated failures of the juvenile court system to properly "address [his] problems in a concerted and practical way," his sentence of thirty years was excessive. Appellant's Brief at 11.

Ind. Appellate Rule 7(B) provides that we "may revise a sentence authorized by statute if, after due consideration of the trial court's decision, [we find] that the sentence is inappropriate in light of the nature of the offense and the character of the offender." Our review under Appellate Rule 7(B) is deferential to the trial court as to whether the sentence is inappropriate. Pennington v. State, 821 N.E.2d 899, 903 (Ind. Ct. App. 2005).

Our review of the nature of the offense reveals that within the course of a two-week period, Wilson carried out five robberies and one attempted robbery involving a total of nineteen victims. Though Wilson was not armed with a real gun when he committed the robberies, the BB gun he carried is still considered a deadly weapon in Indiana. Moreover, as the trial court noted, the victims involved in the incidents believed the weapon was real and feared for their lives. Wilson exhibited violent threats towards the victims and bystanders of the robberies, pointing his gun at them, forcing them to the floor, and even placing his gun to their heads. Furthermore, while at gunpoint, Wilson gave several victims ten to thirty seconds in which to comply with his demands for

money. One victim "really believed she might be killed" if she did not comply with Wilson's demands to empty a cash register and safe. Transcript at 53. Lastly, Wilson's crimes were calculated and repeated in nature. This is evident from the sheer number of incidents that occurred over such a short period of time and the fact that one individual was even robbed by Wilson on two separate occasions.

Our review of the character of the offender reveals that Wilson has largely taken responsibility for the offenses he committed. Following his apprehension by the police, he admitted to planning and participating in nine separate robberies in the Indianapolis area. Further, Wilson has been cooperative with the State, agreeing early on to plead guilty to six class B felony counts of robbery and attempted robbery. Wilson does have a history of some mental and emotional problems, including educational deficiencies, depression and nervousness, which may have influenced some of the poor decisions he made in the instant case. Moreover, Wilson is a young individual, being only seventeen when he committed his offenses and eighteen at the time of sentencing. However, the trial court noted that Wilson is also a "veteran" within the juvenile system. Transcript at 60. In fact, he was out on parole from a prior juvenile offence when he was arrested in the instant case. Wilson has an extensive juvenile criminal record dating back to 1997. Over his eighteen years of life, he has received a total of nine true findings for crimes such as theft, burglary, arson, and battery. Lastly, the State indicated that Wilson, even while awaiting a sentencing decision of the trial court from jail, continued to make threats to two of his robbery victims through harassing phone calls. In particular, Wilson

threatened to kill a victim and her family, which, incidentally, was the same victim that Wilson had robbed on two occasions prior. Thus, after due consideration of the trial court's decision, we conclude, in light of the nature of the offense and character of the offender, the sentence of thirty years was not inappropriate. See, e.g., Alexander v. State, 837 N.E.2d 552, 557 (Ind. Ct. App. 2005) (holding that the trial court's imposition of the presumptive sentence was not inappropriate in light of the nature of the offense and character of the offender).

For the foregoing reasons, we affirm Wilson's sentence for five counts of robbery as class B felonies and one count of attempted robbery as a class B felony.

Affirmed.

KIRSCH, J. and MATHIAS, J. concur